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DD/A Registry
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OGC 76-6433
16 November 1976

MEMORANDUM FOR: Inspector General

FROM : [REDACTED] STATINTL
Assistant General Counsel

SUBJECT : Agency Assistance to Senate Select Committee

REFERENCES : A. IG Memo 76-3216, dated 22 Oct 1976, same subject
B. OC Memo M-76-648, dated 14 Oct 1976, subject: Agency Assistance to Other Government Components, with OC Request 77-3 attached

1. In your memorandum at Reference A, you requested the opinion of this Office concerning the propriety and legality of this Agency providing, maintaining and funding KY-3 secure telephone equipment for use by the Senate Select Committee in the U.S. Capitol Building.

2. It is our opinion that the provision and maintenance of this equipment is a proper and lawful activity. Executive Order 11905 instructs the Director of Central Intelligence at Section 3(d)(1)(xi), to "...facilitate the use of foreign intelligence products by Congress." The provision of this equipment, on a loan basis would, in our opinion, be consistent with that directive. Moreover, none of the restrictions on intelligence activities contained in the Order would appear to preclude such an arrangement.

3. Several considerations are involved where funding arrangements are concerned. First is the question of the equipment itself and the basis on which it is provided to the Committee. The equipment has been loaned, thus the provisions of the Economy Act are not necessarily good authority for such an arrangement. In fact, at least one Federal District Court has noted that the Economy Act applies only to sales, and not to loans (U. S. v. Banks, 383 F. Supp. 368, 376 (D.C.W.D.S.Dak., 1974)). Nevertheless, I believe there is ample authority in the Central Intelligence Agency Act of 1949 (50 U.S.C. 403) particularly the provisions of Sections 5 and 8 of the Act, for the Director to provide this equipment on a loan basis, in furtherance of the legitimate responsibilities of both the Director and the Agency.

I believe this rationale will also apply to authorize the Agency to bear the costs involved in routine maintenance and servicing of the equipment while it is on loan, as well as the costs of the periodic communications security checks which must be conducted. The provision of the equipment on this basis, and the maintenance and servicing of it, not only contribute to the Director's and the Agency's performances of their functions, but these are services which only the Agency can provide. This particular system is not obtainable elsewhere.

4. A different situation exists with respect to the monthly charge for the telephone lines connecting the U.S. Capitol and the CIA Headquarters building. The Director may in fact have the authority to bear this cost also, on the rationale that the telephone lines are a necessary component of the service which is being furnished.

5. It is our understanding, however, that the Committee has now agreed to pay this monthly charge itself, and has agreed to reimburse the Agency for the monthly charges which the Agency has paid to date. In our view, this is an appropriate and entirely acceptable arrangement.

STATINTL

cc: DDCI (Knoche)